THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 13986 OF 2006

BETWEEN:

M.Nagaveni and another

…Petitioners

vs.

The District Collector, East Godavari District and others

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 13986 OF 2006

ORAL ORDER

The only issue urged by the learned counsel for the petitioners is with regard to the invalidity of the draft notification issued under Sec.4(1) of the Land Acquisition Act,1894(for short "the Act") proposing acquisition of the petitioners' lands. The notification invokes the urgency clause under Sec.17 (4) of the Act to dispense with the enquiry under Sec.5-A of the Act. The acquisition is stated to be for providing house-sites for weaker sections. An un-dated draft declaration under Sec.6 has also been issued which merely mentions "5/06"(as the date).

As the enquiry under Sec.5-A is a salutary statutory provision and as provision of house sites for weaker sections is a recurrent governmental theme that does not present an urgency of such magnitude as to warrant the exclusion of the enquiry under Sec.5-A of the Act, in the considered view of this Court, the invocation of the urgency clause under Sec.17(4) of the Act and dispensing with the enquiry under Sec.5-A of the Act constitutes an arbitrary, and irrational exercise of power and is so declared. The draft declaration under Sec.6 of the Act is quashed, as are any subsequent proceedings. The respondents will now proceed to issue a notice to the petitioners

calling upon them to submit their objections/explanations to the enquiry to be held under Sec.5-A of the Act. The conclusions of the respondents after considering the objections submitted by the petitioners shall be communicated to the petitioners. The petitioners shall not be dispossessed meanwhile.

The writ petition is disposed of as above at the stage of admission after hearing the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition. No order as to costs.

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GODA RAGHURAM,J

11th JULY 2006

Note:
Furnish CC by
tomorrow
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*TSNR